

Todd M. Friedman (216752)
Law Offices of Todd M. Friedman, P.C.
21550 Oxnard St., Suite 780
Woodland Hills, CA 91367
Phone: (877) 206-4741
Fax: (866)633-0228
tfriedman@toddflaw.com
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

I, TODD M. FRIEDMAN, DECLARE AND STATE AS FOLLOWS:

1. I am competent to testify in a court of law and if called to do so would testify as specified herein.
 2. I am Plaintiff's attorney in this matter and was retained to represent him, along with Stephen P. DeNittis and DeNittis Osefchen Prince, P.C., in a claim against Defendants for violations of Various California

1 Consumer Protection Statutes. Mr. DeNittis is admitted *pro hac vice* in
2 a similar matter involving the same parties, same counsel and this court
3 in the matter *Munning v. The Gap, Inc, et al*, Case No. 4:17-cv-5905
4 (“Munning Matter”). My office and I are local counsel for Mr. DeNittis
5 in both this matter and the Munning Matter

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- 7 3. On November 27, 2017, this Honorable Court set a Case Management
8 Conference for January 16, 2018, and on December 14, 2017 this
9 Honorable Court Ordered that Plaintiff file and Opposition to
10 Defendant’s Motion to Dismiss Plaintiff’s Class Action Complaint by
11 January 11, 2018.
- 12
- 13 4. My office and Stephen P. DeNittis agreed that Mr. DeNittis’ office
14 would appear at the Case Management Conference on January 16, 2018
15 and that our firm would not need to appear on behalf of Plaintiff. My
16 office and Mr. DeNittis’ office also agreed that Mr. DeNittis would take
17 the lead in filing the Opposition to Defendant’s Motion within the time
18 period.
- 19
- 20 5. During the time of the Case Management Conference Mr. DeNittis was
21 in the hospital and could not attend the Conference. Mr. DeNittis is
22 concurrently filing a declaration explaining his incapacitation in the
23 hospital.
- 24
- 25 6. My office and I were not made aware that Mr. DeNittis was in the
26 hospital until after the Case Management Conference.
- 27
- 28

- 1 7. Had my office been aware that Mr. DeNittis was not available for the
2 Case Management Conference earlier our office would have taken the
3 steps necessary to attend the Conference and Respond to Defendant's
4 Motion.
- 5
- 6 8. In the future, Plaintiffs' counsel will make diligent efforts to ensure that
7 no hearings or deadlines are missed on this matter. For these reasons, I
8 humbly request that sanctions not be granted in this case.
- 9
- 10 9. I declare under penalty of perjury that the above statements by me are
11 true and correct.
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14 **FURTHER AFFIANT SAYETH NAUGHT**

15 Respectfully submitted this January 18, 2018

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17 By: s/ Todd M. Friedman
18 Todd M. Friedman, Esq.,
19 Attorney for Plaintiff, Charles Denton

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